

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** New England Signs, for the Newman Center

**Date application filed with the Town Clerk:** July 12, 2006

**Nature of request:** A Special Permit to construct a sign that exceeds height and area requirements, under Sections 9.22 and 8.41 of the Zoning Bylaw

**Address:** 472 North Pleasant Street (Map 11A, Parcel 22, 23 & 86, R-F Zoning District)

**Legal notice:** Published on August 7 & 14, 2006 in the Daily Hampshire Gazette and sent to abutters on August 2, 2006.

**Board members:** Tom Simpson, Russ Frank and Jane Ashby

**Submissions:** The petitioner submitted 1) a rendering of the proposed sign drawn by New England Signs Inc., dated July 6, 2006, and 2) a site plan of the Newman Center, drawn by Alfred Casella Architects, dated January 14, 2005

**Site Visit:** August 21, 2006

The Board met with Richard Talbot of the Newman Center and Richard Sarnoff of New England Signs, Inc. The Board observed the following:

- The large grey building, Amherst's Newman Center, which is located at the southern end of the University of Massachusetts campus at the corner of North Pleasant Street and Mass Avenue.
- Another intersection with North Pleasant Street and Career Center Way across the street
- The building and the driveway/parking that cover most of the site, with the front lawn covering about 1/6 of the site
- Other signs of the size proposed located just south of the Newman Center – a large UMass sign and the Baptist Church sign, both along North Pleasant Street.

**Public Hearing:** August 21, 2006

Richard Talbot, 45 High Point Drive, spoke to the petition at the hearing. He gave the following information about the proposed sign:

- The sign itself would be 4 x 6 feet, with a header 1 ½ ft on top.
- The sign would be double sided, visible from both directions along North Pleasant Street.
- It would be internally illuminated.
- There would be four lines for changeable text below the name "Newman Catholic Center". The text would indicate the service times, the priest's name, etc.
- Brick pillars 8-12" wide would support the sign, which would be 3 feet off the ground.
- The site plan submitted shows plantings near the proposed sign location, but the plantings

- have been removed from the plan.

Mr. Frank asked if the location proposed for the sign is the only possibility. Mr. Talbot responded that it could be moved closer to the building, but that they wish to keep the proposed sign angle because of the curve in North Pleasant Street in front of the building. They are concerned with sight lines, particularly for automobile traffic coming from the north. Mr. Talbot also indicated that most of the drivers or pedestrians who might be interested in the Center would be coming from the south, heading to UMass.

Ms. Ashby asked whether the size of the sign includes the area between the posts.

Bonnie Weeks, Building Commissioner, said that the pillars and the empty space below the sign are included as part of the calculation of the sign size. Thus this sign size is actually around 64 square feet. Section 8.101 of the Zoning Bylaw limits signs in Residential Districts to be no more than 12 square feet, and to be at least 30 inches from the public sidewalk (Section 8.104).

The proposed sign is much larger than Bylaw regulations allow for residential districts, but the location is surrounded by the University. The site itself is non-conforming and thus an oversized sign could be considered under Section 9.22 of the Zoning Bylaw, which concerns changes to non-conforming buildings, uses or properties. In addition, non-conforming signs are governed by Bylaw Section 8.41, which states that an identification sign may be erected where the Board of Appeals "finds that such signs will serve the public convenience, will not endanger the public safety, and will be of such size, location and design as will not be detrimental to the neighborhood."

Ms. Ashby said that sign is quite large, and, in her opinion, the sign would be better placed if set back further from the sidewalk and street. There is a natural rise to the land, and if closer to the building, the sign could be closer to the ground and still quite visible to the public, she said.

Mr. Simpson agreed that he doesn't like the proposed location because of safety reasons – the intersection of Mass Avenue and North Pleasant Street is very busy and dangerous, with students crossing the road on the crosswalk right there, and cars speeding around the corner. Career Center Way intersects with North Pleasant Street right there as well. Placing the sign essentially within that intersection could be an unsafe distraction for drivers coming around the corner from the south. If moved a bit to the north, then drivers coming around the corner onto North Pleasant Street could see it better without being distracted, he said.

Mr. Frank agreed that there are no sight-lines for the sign until drivers come around the corner onto North Pleasant Street.

Members of the public spoke in support of the proposal. Christine Nelson, 200 Long Plain Road, wondered why churches are governed by the Zoning Bylaw. Richard Sarnoff, New England Signs, said that the Baptist church just down the street has a sign the same size as what is proposed.

Ms. Ashby stated that if the applicants wish to have a sign without a Special Permit, it can only be 12 square feet in area.

Ms. Ashby further stated that she has trouble with the height of the sign. The applicants said the height had to do with snow accumulation in the winter, which could cover the sign. Ms. Ashby responded that if the sidewalk is shoveled, the snow accumulation should not interfere.

Mr. Frank stated that moving the sign closer to the building would be okay, but he does want the sign located more to the north than the present proposed location.

Ms. Ashby said that she wants less height. The proposed height and internal lighting make the sign quite prominent. It is reminiscent of a MacDonald's sign, although that is clearly not the intention of the applicant. The sign at the Unitarian Society downtown is smaller and closer to the ground, but can be read by pedestrians and drivers.

Mr. Simpson asked about eliminating two lines of copy to make the sign smaller. The applicant said that without the 4 lines of text, they might as well not have a sign. The 4 lines are needed for information that constantly changes.

Mr. Frank made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion, and the vote was unanimous to close the hearing.

**Public Meeting:**

Under Section 8.41 of the Zoning Bylaw, the Board of Appeals may approve a non-conforming sign that will serve the public good and will not endanger the public safety. Given that stipulation, the Board agreed that the sign's size and location should be modified for safety and aesthetic reasons. They agreed that the sign should begin 1 ½ feet from the ground, not 3 feet. They also agreed that the sign would be more visible and in a safer location if placed closer to the northerly driveway of the Newman Center. That is, the sign should be moved at least 30 feet north of the Center's sidewalk and approximately 5-10 feet south from the northerly driveway.

The applicant's submitted site and sign plans were modified by the Board to reflect their agreed upon changes. The Special Permit conditions reflecting the sign and location changes were agreed upon in the public meeting as well. Mr. Simpson made a motion to approve the sign, subject to it being not higher than 1 ½ ft from the ground and approximately 5-10 feet from the northerly driveway. Mr. Frank seconded the motion and the vote for these sign changes was unanimous.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the environment is not residential, as the zoning classification (R-F) implies, but is surrounded by the university and other institutions, with several large identification signs.

10.382 & 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site, since the sign will be made of sturdy construction materials and is designed to educate the public with dates of services, names of the priests, and events.

10.383 & 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the proposed sign location was modified by the Board to be further away from the intersections. In addition, the sign is far enough away from the sidewalk that pedestrian movement will not be affected.

10.384 – Adequate and appropriate facilities will be provided for the proper operation of the proposed use; the Newman Center has been at this location for many years and maintains its property well.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because, as conditioned, the proposal meets the criteria of Section 8.41 of the Bylaw regarding public convenience and safety.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the sign will be internally lighted, and should be non-intrusive to their one neighbor, a fraternity to the north.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the proposed sign is one of many large signs in the UMass area.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it promotes the convenience and general welfare of those who wish to frequent the Newman Center.

#### **Public Meeting – Zoning Board Decision**

Mr. Simpson made a motion to approve the application, with modifications and conditions. Mr. Frank seconded the motions.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit to construct a sign that exceeds height and area requirements, under Sections 9.22 and 8.41 of the Zoning Bylaw on the premises at 472 North Pleasant Street (Map 11A/ Parcels 22, 23 & 86, R-F Zoning District) as requested in the application filed by New England Signs for the Newman Center, with conditions.

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THOMAS SIMPSON

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RUSSELL FRANK

\_\_\_\_\_  
JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to construct a sign that exceeds height and area requirements, under Sections 9.22 and 8.41 of the Zoning Bylaw on the premises at 472 North Pleasant Street (Map 11A/ Parcels 22, 23 & 86, R-F Zoning District) as requested in the application filed by New England Signs for the Newman Center, subject to the following conditions:

1. The sign shall be built as shown on the plans submitted to the Board and approved, with modifications, at a public meeting on August 21, 2006.
2. The bottom of the sign shall be no more than 1 ½ feet from the ground.
3. The sign shall be located at a minimum of 40 inches from the public sidewalk along North Pleasant Street and no more than 10-12 feet south of the northerly driveway of the Newman Center.
4. Any changes to the site or sign plans shall come before the Board at a public meeting for review and approval.

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Thomas Simpson, Chair  
Amherst Zoning Board of Appeals

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DATE